

State of South Dakota

EIGHTIETH SESSION LEGISLATIVE ASSEMBLY, 2005

490L0489

HOUSE BILL NO. 1169

Introduced by: Representatives Heineman, Bradford, Cutler, Elliott, Garnos, Hargens, Hennies, Hunhoff, McCoy, McLaughlin, Murschel, Nelson, Olson (Ryan), Rhoden, Roberts, Rounds, Schafer, and Weems and Senators Olson (Ed), Bogue, Moore, Nesselhuf, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to clarify certain procedures for terminating or nonrenewing
2 a teacher's contract.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-43-6.1 be amended to read as follows:

5 13-43-6.1. A teacher may be terminated, by the school board, at any time for just cause,
6 including breach of contract, poor performance, incompetency, gross immorality, unprofessional
7 conduct, insubordination, neglect of duty, or the violation of any policy or regulation of the
8 school district. A school district may nonrenew a teacher who is in or beyond the fourth
9 consecutive term of employment as a teacher with the school district pursuant to § 13-43-6.3
10 for just cause, including breach of contract, poor performance, incompetency, gross immorality,
11 unprofessional conduct, insubordination, neglect of duty, or the violation of any policy or
12 regulation of the school district.

13 Section 2. That § 13-43-6.2 be amended to read as follows:

14 13-43-6.2. ~~The~~ If nonrenewal of a teacher is contemplated under § 13-43-6.1, the



1 superintendent or ~~the school board~~ chief executive officer shall give written notice of ~~the~~
2 ~~termination~~ an intention to recommend nonrenewal to the teacher and the school board; a
3 written statement of the reasons for the ~~termination~~ recommendation; access to the employment
4 records of the teacher; the opportunity to the teacher for a hearing before the school board to
5 present reasons in person or in writing why the ~~termination~~ nonrenewal should not occur; and
6 the opportunity to be represented. The teacher shall request the hearing as provided by this in
7 ~~section shall be requested within fifteen days after receipt of the notice 5 of this Act.~~ The school
8 board shall conduct the hearing not sooner than fourteen days, nor later than forty-five days,
9 after receipt of the teacher's request for hearing. The parties may waive the time limitations
10 provided for in this section.

11 Section 3. That chapter 13-43 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 If termination of a teacher is contemplated under § 13-43-6.1, written notice of a
14 recommendation for termination shall be presented to the teacher and the school board by the
15 superintendent or chief executive officer. The recommendation shall state the reason or reasons
16 upon which the recommendation is based, and the effective date of the recommended
17 termination:

18 In addition, the notice shall identify the following rights:

- 19 (1) Access to the teacher's employment records;
- 20 (2) Upon request, a hearing before the school board to present reasons in person or in
21 writing why the termination should not occur; and
- 22 (3) The right to be represented at the hearing at the teacher's cost.

23 The school board shall conduct the hearing, no sooner than fourteen days, and no later than
24 forty-five days, after receipt of the written request for a hearing. The parties may waive these

1 time limitations. If no hearing is requested by the teacher within the time and manner provided
2 in section 5 of this Act, the right to a hearing shall be deemed waived by the teacher; and the
3 school board shall thereafter act on the recommendation without further notice or hearing.

4 Section 4. That chapter 13-43 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Delivery of any notification to the teacher pursuant to § 13-43-6.2 or section 3 of this Act
7 shall be established by certified mail with return receipt signed by the teacher, personal delivery
8 evidenced by a receipt signed by the teacher, or affidavit of personal service made by a person
9 authorized to effect personal service.

10 Section 5. That chapter 13-43 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Delivery of a written request for a hearing provided by § 13-43-6.2 or section 3 of this Act
13 shall be established by certified mail with return receipt signed by the superintendent, chief
14 executive officer, or board member, or a person authorized to accept certified mail for the
15 district, or personal delivery evidenced by a receipt signed by the superintendent, chief executive
16 officer, or board member, or an affidavit of personal service upon the district made by a person
17 authorized to effect personal service no later than fifteen days after receipt of the notice by the
18 teacher.

19 Section 6. That § 13-43-6.3 be amended to read as follows:

20 13-43-6.3. Until a teacher is in or beyond the fourth consecutive term of employment as a
21 teacher with the school district, a school board may or may not renew the teacher's contract. The
22 superintendent or ~~school board~~ chief executive officer shall give written notice of nonrenewal
23 by April fifteenth but is not required to give further process or a reason for nonrenewal.

24 After a teacher is in or beyond the fourth consecutive term of employment as a teacher with

1 the school district, §§ 13-43-6.1 and 13-43-6.2 apply to any nonrenewal of the teacher's contract.
2 On or before April fifteenth, the ~~school board~~ superintendent or chief executive officer shall
3 notify the teacher and the school board in writing of ~~its intention~~ the recommendation to not
4 renew the teacher's contract.

5 Acceptance by the teacher of an offer from the district to enter into a new contract with the
6 teacher shall be in the manner specified in the offer. Failure of the teacher to accept the offer in
7 the manner specified ~~shall result in~~ constitutes the termination of the existing contract between
8 the teacher and the district at the end of its term.